

HB 1211 -- MORTGAGE FORECLOSURE MEDIATION CODE

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This bill establishes the Mortgage Foreclosure Mediation Code that provides for mediation conferences between lenders and homeowners for the purpose of facilitating a mutually beneficial alternative to foreclosure.

Under the bill, a lender may seek a certificate of compliance, that permits them to file a foreclosure deed. In order to receive the certificate, a lender must go through the mediation process described in the bill. The process begins with the lender sending a notice of foreclosure and notice of right to request mediation to the homeowner and the mediation coordinator. Upon receiving the notice, the homeowner has the option of requesting mediation for the purpose of facilitating a more beneficial alternative to foreclosure.

In the event that a settlement is reached between the lender and homeowner prior to the mediation conference, a copy of the settlement agreement must be sent to the mediation coordinator. Subsequently, the mediation coordinator must issue the lender a certificate of compliance within two business days.

In the event that a settlement agreement is reached during the mediation conference, the mediator must submit a copy of the settlement agreement to the mediation coordinator. Subsequently, the mediation coordinator must issue the lender a certificate of compliance within two business days.

In the event that the parties fail to reach a settlement agreement, the mediation coordinator must issue a certificate of compliance to the lender if the lender or representative of the lender:

- (1) Sent the notice of foreclosure and the notice of right to request mediation to the homeowner;
- (2) Provided all of the necessary paperwork to the homeowner that was required;
- (3) Had the authority to negotiate and modify the loan in question; and
- (4) Paid all the required fees.

If a lender fails to comply with any of the provisions of the bill, the mediation coordinator must not issue a certificate of compliance to the lender.

These provisions must not prohibit any person or entity from exercising the right to carry out a judicial or nonjudicial foreclosure.

A lender must file a valid certificate of compliance for the foreclosed residential property with the county assessor before or contemporaneously with the filing of any instrument of conveyance of title to the property with the recorder of deeds. The recorder must not refuse to file any instrument for failure to comply with the requirement.